

Article - Public Utilities

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§7-542.

(a) (1) Rate stabilization property does not constitute an account or general intangible under § 9-102 of the Commercial Law Article.

(2) The creation, granting, perfection, and enforcement of liens and security interests in rate stabilization property, including all proceeds of that property, are governed by this section and not by the Maryland Uniform Commercial Code.

(b) (1) A valid and enforceable lien and security interest in intangible rate stabilization property, including all proceeds of that property, may be created only by a qualified rate order and the execution and delivery of a security agreement with a financing party in connection with the issuance of rate stabilization bonds.

(2) (i) The lien and security interest shall attach automatically from the time that value is received for the bonds.

(ii) On perfection through the filing of notice with the State Department of Assessments and Taxation in accordance with the procedures prescribed under subsection (d) of this section:

1. the lien and security interest shall be a continuously perfected lien and security interest in the rate stabilization property; and

2. all proceeds of the property, whether accrued or not, shall have priority in the order of filing and take precedence over any subsequent judicial or other lien creditor.

(3) The security interest shall be perfected:

(i) retroactive to the date value was received if notice is filed within 10 days after value is received for the rate stabilization bonds; or

(ii) as of the date of filing, if notice is not filed within that 10-day period.

(c) (1) Subject to paragraph (2) of this subsection, transfer of an interest in rate stabilization property to an assignee shall be perfected against all third parties, including subsequent judicial or other lien creditors, when:

- (i) the qualified rate order becomes effective;
- (ii) transfer documents have been delivered to the assignee;

and

- (iii) a notice of that transfer has been filed in accordance with procedures adopted under subsection (d) of this section.

(2) If notice of the transfer has not been filed in accordance with this subsection within 10 days after the delivery of transfer documentation, the transfer of the interest is not perfected against third parties until the notice is filed.

(d) The State Department of Assessments and Taxation shall implement this section by establishing and maintaining a separate system of records for the filing of notices under this section and prescribing the procedures for those filings based on Title 9 of the Maryland Uniform Commercial Code, as adapted to this subtitle and using the terms defined in this subtitle.

(e) (1) The priority of a lien and security interest perfected under this section is not impaired by:

- (i) any later modification of the qualified rate order under § 7-531, § 7-533, or § 7-534 of this subtitle; or

- (ii) the commingling of funds arising from qualified rate stabilization charges with other funds.

(2) Any other security interest that may apply to those funds shall be terminated when they are transferred to a segregated account for the assignee or a financing party.

(3) If rate stabilization property has been transferred to an assignee, any proceeds of that property shall be held in trust for the assignee.

(f) If a default or termination occurs under the rate stabilization bonds:

- (1) the financing parties or their representatives may foreclose on or otherwise enforce their lien and security interest in any intangible rate stabilization property as if they were secured parties under Title 9 of the Maryland Uniform Commercial Code;

(2) the Commission may order that amounts arising from qualified rate stabilization charges be transferred to a separate account for the financing parties' benefit, to which their lien and security interest shall apply; and

(3) on application by or on behalf of the financing parties, the Circuit Court for Baltimore City, Business and Technology Case Management Program, shall order the sequestration and payment to the financing parties of revenues arising from the qualified rate stabilization charges.

(g) The court order under subsection (f) of this section shall remain in full force and effect notwithstanding any reorganization, bankruptcy, or other insolvency proceedings with respect to the electric company or its successors or assignees.

(h) This section does not limit any other remedies available to the applying party.

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